

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

V.

CYNTHIA ANN WRIGHT

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CRIMINAL NO. 6:06-CR-24

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On August 16, 2006, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant, Cynthia Ann Wright. The government was represented by Gregg Marchessault, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Court-appointed counsel, Ken Hawk.

Defendant originally pleaded guilty to aiding and abetting the transportation of an unlawful alien, a Class D felony. The offense carried a statutory maximum imprisonment term of five years. The United States Sentencing Guideline range, based on a total offense level of 13 and a criminal history category of VI, was 33 to 41 months. On December 10, 2001, after granting the Government's Motion for a downward departure pursuant to U.S.S.G. § 5K1.1 for Defendant's substantial assistance, U.S. District Judge Janis Graham Jack sentenced Defendant to 27 months imprisonment followed by three years supervised release, plus special conditions to include drug aftercare, mental health aftercare and nighttime restriction. On April 25, 2005, Defendant completed the term of imprisonment and began the term of supervised release. On February 7, 2006, U.S. District Judge Leonard Davis accepted jurisdiction of this case.

Under the terms of supervised release, Defendant was prohibited, in relevant part, from: committing another federal, state or local crime, and from illegally possessing a controlled substance.

As standard conditions of supervision, Defendant was required to, among other things, report to the probation officer and submit a truthful and complete written report within the first five days of each month. In addition, Defendant was to refrain from the excessive use of alcohol and was not to “purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.”

In its petition, the government alleges that Defendant failed to report as directed to the probation office on February 8, 2006, and March 3, 2006. In addition, the government alleges that Defendant failed to appear at an administrative hearing on June 23, 2006. The government further alleges that Defendant submitted a urine sample that tested positive for cocaine on November 21, 2005.

If the Court finds by a preponderance of the evidence that Defendant committed any of these violations, a statutory sentence of no more than two years of imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). Pursuant to Section 7B1.1(a) of the Sentencing Guidelines, violating a condition of supervision by submitting a urine sample that tests positive for cocaine, and failure to report as directed by the probation officer, would constitute a Grade C violation, for which the Court may revoke Defendant’s term of supervised release in favor of a term of imprisonment. U.S.S.G. § 7B3.1(a)(2). Considering Defendant’s criminal history category of VI, the Guideline imprisonment range for a Grade C violation is 8 to 14 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the violations alleged in the government’s petition. In exchange, the government agreed to recommend that Defendant serve 14 months in prison with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court RECOMMENDS that Defendant, Cynthia Ann Wright, be committed to the custody of the Bureau of Prisons for a term of imprisonment of 14 months with no supervised release to follow. The parties have waived their right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 23rd day of August, 2006.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE